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# A BILL FOR AN ACT

RELATING TO FORECLOSURES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that one little-known  
2 problem of the national foreclosure crisis occurs when banks or  
3 other mortgagees walk away from a foreclosure. This problem,  
4 sometimes referred to as the "zombie title" problem, occurs when  
5 homeowners move out after receiving notice of a foreclosure  
6 sale. Prior to a public sale, the bank, mortgagee, or other  
7 financial institution may walk away from the foreclosure process  
8 and cancel the sale without notifying the homeowners.

9       The legislature further finds that homeowners legally own  
10 their property and the homeowners' names remain on the title  
11 until the date of public sale. Without a public sale, the  
12 foreclosure process is left in limbo. Homeowners may be left  
13 with all of the responsibilities for a property but none of the  
14 rights that existed prior to the start of the foreclosure  
15 process. Unfortunately for homeowners, there are no regulations  
16 that require foreclosing mortgagees in a judicial foreclosure to  
17 inform a homeowner when a bank decides not to foreclose.



1 Unsuspecting homeowners may suffer severe financial penalties as  
2 a result of canceled foreclosure sales they knew nothing about.

3 Therefore, the purpose of this Act is to establish a notice  
4 of postponement or cancellation of sale requirement under part  
5 IA, chapter 667, Hawaii Revised Statutes, relating to judicial  
6 foreclosures.

7 SECTION 2. Chapter 667, Hawaii Revised Statutes, is  
8 amended by adding a new section to part IA to be appropriately  
9 designated and to read as follows:

10 "§667- Postponement, cancellation of sale. (a) The  
11 public sale may be either postponed or canceled by the  
12 foreclosing mortgagee. Notice of the postponement or the  
13 cancellation of the public sale shall be:

14 (1) Announced by the foreclosing mortgagee at the date,  
15 time, and place of the last scheduled public sale; and

16 (2) Provided to:

17 (A) The mortgagor and the borrower;

18 (B) Any prior or junior creditors who have a recorded  
19 lien on the mortgaged property before the  
20 commencement of the foreclosure action;

21 (C) The director of taxation;



(D) The director of finance of the county in which  
the mortgaged property is located; and

(E) Any other person entitled to receive notification  
of the foreclosure action under this part.

(b) If there is a postponement of the public sale of the  
mortgaged property, a new public notice of the public sale shall  
be published once in the format described in section 667-20.

The new public notice shall state that it is a notice of a  
postponed sale. The public sale shall take place no sooner than  
fourteen days after the date of the publication of the new  
public notice. Not less than fourteen days before the date of  
the public sale, a copy of the new public notice shall be posted  
on the mortgaged property or on another real property of which  
the mortgaged property is a part, and it shall be mailed or  
delivered to the mortgagor, to the borrower, and to any other  
person entitled to receive notification of the foreclosure  
action under this part.

(c) Upon the fourth postponement of every series of four  
consecutive postponements, the foreclosing mortgagee shall  
follow all of the public notice of public sale requirements of  
section 667-20."

SECTION 3. New statutory material is underscored.



1       SECTION 4.   This Act shall take effect upon its approval.

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**Report Title:**

Foreclosures; Public Sales; Postponement or Cancellation of  
Sale; Zombie Title

**Description:**

Establishes a notice of postponement or cancellation of sale  
requirement under part IA, chapter 667, Hawaii Revised Statutes,  
relating to judicial foreclosures. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is  
not legislation or evidence of legislative intent.*

